CANADA

NATIONAL ENERGY BOARD
REASONS FOR DECISION

In the Matter of a Public Inquiry
under subsection 20(3) and Part IV
of the National Energy Board Act
into matters relating to the

Interprovincial Pipe Line Limited
Apportionment of Pipeline Space

July 1985

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Recital and Appearances

IN THE MATTER OF the National Energy Board Act and the Regulations made thereunder; and

IN THE MATTER OF a public hearing, pursuant to subsection 20(3) and Part IV of the National Energy Board Act, to examine the continuing appropriateness of the provisions in the tariffs of Interprovincial Pipe Line Limited and the application of those provisions, relating to the apportionment of space amongst shippers on its pipeline system for the transportation of oil to domestic and export markets, Board File Number: 1722-13-J1-1.

HEARD in Ottawa, Ontario on 27, 28, 29, 30, 31 May and 3, 4, 5 and 6 June, 1985.

BEFORE:

J.R. Hardie	Presiding Member
W.A. Scotland	Member
W.G. Stewart	Member

APPEARANCES:

J.W. Brown, Q.C. G. Leslie	Interprovincial Pipe Line Limited
J.R. Smith, Q.C. L.E. Pasychny	Murphy Oil Company Ltd.
W.M. Smith	Alberta Petroleum Marketing Commission
S.G. Trueman	Amoco Canada Petroleum Company Ltd.
R.A. Pashelka	Chevron Canada Resources Limited
B. Dahlstrom H. Empey	Consumers' Co-operative Refineries Limited
F.M. Saville, Q.C.	Dome Petroleum Limited
L.D. Horne	Gulf Canada Limited
H.D. Williamson	Husky Oil Operations Ltd.
J.B. Ballem, Q.C.	Imperial Oil Limited; Esso Resources Canada Limited
H.M. Kay L.E. Smith	Koch Oil Co. Ltd.
M.A. Putnam, Q.C.	Mobil Oil Canada Ltd.
A.S. Hollingworth J. Snider	Northridge Petroleum Marketing Inc.
L.A. Leclerc	Petro-Canada Inc.
S.K. Lamb	Petrosar Limited
R.W. Riegert	Shell Canada Limited
M.M. Peterson K. MacFarlane	Sunoco Inc.
M.P. LaPerrière	Texaco Canada Inc.
P.L. de Greef J. Robertson	Ultramar Canada Inc.
R.H. Kline	Union Oil Company of Canada Limited

J.P. Peacock, Q.C. G.J. Shields	Independent Petroleum Association of Canada
M.A. Sereda E.J. Vorman	Saskatchewan Department of Energy and Mines
R.S. O'Brien, Q.C.	Air Canada
J.R.W. Hall	Chevron Canada Limited
J.J. Marshall	Norcen Energy Resources Limited
D.G. Hart, Q.C. Ellen S. Decter	PanCanadian Petroleum Limited
René Bédard A. Bigué	SOQUIP
M.W.P. Boyle	Trans Mountain Pipe Line Company Limited
C.C. Black	TransCanada PipeLines Limited
M.J. Kolos	United Refining Company
W. Miller	Director of Investigation and Research under the Combines Investigation Act
J.M. Johnson, Q.C. J. Pounder R. Moyse	Ontario Ministry of Energy
J. Robitaille	Attorney General for the Province of Quebec
D. Assh R.W. Graw	National Energy Board

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Abbreviations and Definitions

b/d	Barrels per day
(the) Board	The National Energy Board
the carrier	Interprovincial Pipe Line Limited
"Current Tender" Method	Method by which pipeline space is allocated *pro rata* to all tenderers on the basis of notices of shipment filed with the carrier.
"Envelope Approach" Method	Method by which a shipper is awarded an "envelope" of throughput capacity based on both volume and resistance to flow.
Historical Method	Method by which Interprovincial Pipe Line Limited initially allocates pipeline space to new shippers up to a maximum of 800 m^3/d and apportions remaining space amongst historical shippers on the basis of their average use of the pipeline system during the 12 months beginning 13 months prior to the month in which apportionment occurs.
IPL	Interprovincial Pipe Line Limited
"Light Crude Oil Equivalency" Method	Method by which allocation of pipeline capacity is expressed in units of light crude oil equivalent volumes to account for effects of the movement of heavier crude oil in IPL.
m^3/d	Cubic metres per day
NGLs	Natural Gas Liquids
Northern Tier Refineries	For the purposes of this Decision, Northern Tier refineries are: Ashland refinery — St. Paul, Minnesota, Koch refinery — Pine Bend, Minnesota, Murphy refinery — Superior, Wisconsin.

Chapter 1
Introduction and Reasons for Inquiry

Interprovincial Pipe Line Limited owns and operates a pipeline system from Alberta to Ontario and Quebec for the transportation of refined products, NGLs and crude oils. In western Canada it has 3 Lines which are utilized as follows:

- Line I transports primarily refined products and NGLs;
- Line 2 transports heavy crude oil as well as some light crude oil; and,
- Line 3, which until late I984 was operated as an express light crude oil pipeline from Edmonton, Alberta to Superior, Wisconsin, now also transports batches of heavy crude oils.

It is appropriate to recount the circumstances that led to this inquiry together with information on the operations of IPL under the conditions that have prevailed from time to time.

In 1979, there was a bottleneck on the IPL-Lakehead system, which raised serious doubt as to IPL's ability to make deliveries of all crude oil likely to be tendered to it. At that time, IPL introduced apportionment of capacity and, consistent with a general statement in its approved tariff, did so with reference to historical usage of its facilities by shippers of crude oil and equivalent hydrocarbons. However, because there were independent marketers of refined products serving the domestic market which had processing agreements with Ontario and Quebec refiners but no historical record of shipments, IPL introduced a "new shipper" throughput allowance of up to about 800 m^3/d (5,000 b/d). Subsequently, the bottleneck was removed and no further apportionment of IPL's capacity occurred until recent months.

In the intervening period, the restriction on the delivery of crude oil to the markets served by the IPL-Lakehead system was, for the most part, the result of limited western production. To ensure within Canada an equitable distribution of supply, the National Energy Board utilized its licensing powers with respect to exports of crude oil to prorate the available supply to Canadian refineries served through the Lakehead system. The Board used an historical basis to effect this allocation. After the limitation of crude supplies in western Canada had disappeared, the Board resumed licensing of light crude oil exports. In some months this year, when pipeline capacity on the IPL system again became insufficient, the Board did not restrict its licensing, but rather left the carrier to apply an apportionment procedure. However, because the insufficiency of pipeline capacity appeared to result from continued, increasing production potential and since the required increase in transportation capacity could not be quickly achieved, the Board called the present hearing to review that apportionment procedure.

It should be noted that the Board's export licensing powers could only influence the usage of line space east of Gretna, Manitoba, supplies for Prairie and B.C. refineries being unaffected. In contrast, with capacity restrictions on the IPL system, apportionment can affect the availability of supply to points in Saskatchewan as well as those further east in Canada and the U.S.

The possibility of the need for apportionment will persist until adequate pipeline facilities have been put in place. IPL's recent applications to proceed with further expansion for additional capacity totalling some 35 000 m^3/d have already been approved by the Board. However, it is understood that it would be the end of 1986 before these approved expansions could be fully implemented. Whether the problem will disappear at that time will depend on a number of developments, including the level of production capability in western Canada and available markets.

Chapter 2
Issues Raised — Views of Submittors

In order to focus attention on the issues, the Board requested that submittors express their views on specific questions in addition to other matters they might raise. This section contains summaries of the views expressed and positions taken by various submittors during the inquiry.

1. Should the existing apportionment procedure using an historical base be retained, replaced or modified?

There was general agreement among submittors that the existing apportionment procedure using an historical base should not be retained without modification. Several submittors proposed modifications to the existing procedure while many others recommended its abandonment.

2. In the event that the existing procedures should be retained, what would be the appropriate base period?

Those submittors responding to this question recommended base periods ranging in duration from three months to five years. A consensus developed that a twelve-month base period would generally provide an appropriate reflection of the seasonality of market demand.

3. In the event that the existing procedures should be replaced or modified, what procedure should be used?

The submittors presented a diversity of views responsive to their individual concerns.

Some submittors outlined different priorities, such as;

- priority treatment for refineries which are physically and/or economically dependent on IPL facilities;
- priority for Canadian refiners and/or end-users;
- priority for non-conventional oil production; and,
- priority based on crude oil type.

Apportionment methods drawing a distinction between light and heavy grades of crude oil were commonly suggested, as were proposals based on light crude oil equivalency including a so-called "envelope approach". Methods which encouraged the blending of heavy and light crude oils for shipment on Line 3 were favoured by several submittors.

A number of submittors indicated a preference for retaining the existing apportionment procedure using some form of historical base, modified to correct perceived 'faults' or concerns. Others proposed implementation of a pure "current tender" system of apportionment, providing no priority treatment for any interests. Some submittors suggested apportionment schemes generally based on the tender approach with established priorities. Still others recommended adoption of alternate procedures drawing on elements common to both the historical and current tender approaches. The idea of apportionment based on historical deliveries by feeder pipelines to IPL facilities was also advanced.

4. Should differentiation be made in the apportionment of light and heavy crude oils and if so, how?

As with other issues raised during the hearing, the Board heard evidence on both sides of this question. Submittors who argued against differentiation by crude oil type in the apportionment process generally noted that such differentiation would be inconsistent with IPL's status as a common carrier. Some suggested that an apportionment scheme that discouraged shipments of heavy crude oil could result in long-term damage to the heavy crude oil market. Many opposed to differentiation by crude oil types felt that market forces alone should dictate what crude oil the IPL system should carry.

Submittors who supported differentiation by crude oil type in the apportionment system emphasized the evidence given by witnesses for IPL. These witnesses confirmed that although the curtailment of segregated heavy crude oil shipments in Line 3

would not entirely eliminate the need for apportionment of line space, it would dramatically reduce the extent required.

The case for limiting the shipment of heavy crude oil through the system is that its viscosity and density characteristics make it more difficult to move through the line than medium and light crude oils. Therefore, initial injections of heavy crude oil into a line carrying predominantly light crude oil reduce the rate at which deliveries can be made and cause significant and disproportionate reductions in effective line capacity. Such effects decrease in non-linear fashion with increasing injections of heavy crude oil. Witnesses for IPL estimated that the first 2 000 m^3/d of heavy crude oil injected into Line 3 would reduce the capacity by 11 000 m^3/d, whereas two additional successive injections of 2 000 m^3/d each of heavy crude oil would further reduce the capacity by only 6 000 and 4 000 m^3/d respectively. It was noted during the hearing that injections of medium crude oil into a line carrying predominantly light crude oil would similarly affect line capacity, though in much lesser degree.

In light of such considerations, many of the submittors favoured an apportionment method which differentiated between crude oil types. The evidence indicated, however, that there were no absolute measures on the basis of which such differentiation could be made, although there was considerable support for methods providing incentives to encourage the blending of light and heavy crude oils to medium crude oil specifications (See Item 9 (iii)).

5. Should any distinction be made between shippers supplying domestic markets and those supplying export markets; i.e. should shippers to domestic markets be accorded preferential treatment?

Submittors examined the issue of preference not only from the standpoint of domestic versus foreign destination but also from the perspective of supply alternatives, i.e. whether a refiner, regardless of location, had an economic alternative source of crude oil.

Several submissions contained the view that there should be no preferences. Of those favouring distinctions, opinions varied as to the appropriate basis, preferences being recommended for:

- all Canadian refineries;
- Canadian refineries with no economic supply alternatives;
- Canadian and U.S. refineries with no economic supply alternatives; and,
- refineries which have an historical record of supply from Canada.

Several submittors whose original submissions favoured no preferences modified their positions somewhat under cross-examination so as to recognize the need for distinction in situations where refineries had no economic alternative source of supply. In fact, by the conclusion of the hearing, few submittors expressed the view that no preferences were appropriate. Unfortunately, the evidence provided no clear approach as to how the Board should ultimately determine whether a particular refinery had an "economic alternative supply", although resolution of this matter would be essential for any decision based on that consideration.

There seemed to be a consensus by the close of the hearing that Prairie refineries dependent on IPL should have access to domestic crude oil before volumes were permitted to be shipped further east.

However, submittors either espousing producing interests or representing U.S. importers' interests had reservations in according similar treatment to Ontario refineries. Ontario refiners argued in favour of some type of priority in obtaining access to domestic crude oil on the grounds that economically viable alternative sources did not exist because, in the absence of pipeline connections, offshore foreign crude oil cannot move into Ontario through U.S. Gulf and mid-Continent pipeline systems. Furthermore, it was asserted that, even if transportation systems were in place, the lead times required to arrange for and import offshore crude oil made it impractical to regard such supply as a viable alternative. Attention was also drawn to the fact that government restrictions on the export of U.S. domestic crude oil remained in place which prevented Canadian refiners from having access to U.S. crude oil. These restrictions have since been removed.

The Northern Tier refineries did not make a strong case for receiving special status in securing Canadian crude oil. Supply options, albeit requiring long lead times, seemed to exist for those refiners. However, it was pointed out that enforced use of other supply sources might eliminate an historical market for Canadian heavy crude oil.

6. Should entitlement to space differ between oil produced respectively by conventional and non-conventional means?

Of those submittors who addressed this question, several sought a unique status through exemptions of certain production from any allocation scheme based upon their own special production position. Citing the technical problems which could develop if oil produced by non-conventional means were shut-in, and emphasizing that certain non-conventional projects had been given government assurances of

no production limitations, they requested that priority for pipeline space should be given to this production if markets were available.

Other submittors, although not specific, preferred to see non-conventional production treated with a certain amount of flexibility. However, a majority generally agreed that all production levels should be a reflection of market forces and that no preferential treatment should be given for non-conventional oil production in the utilization of pipeline space. The Alberta Petroleum Marketing Commission, testifying also on behalf of the Government of Alberta, stated that Alberta's pro-rationing system was such as to ensure that synthetic crude oil production remained unaffected in periods of production cut-backs as long as demand for such feedstock existed. Others stated that, given its priority in production, synthetic crude oil should have no difficulty in obtaining markets and, therefore, priority in the allocation of pipeline space was not required.

7. Should change be made in the use of IPL's Line 1?

The majority of submittors opposed changing the current use of Line 1 which transports primarily refined products and NGLs. They took this position on the basis that any change could have an adverse impact upon refined product quality and create operating difficulties for shippers as well as for the carrier. It was further stated that consumers might also suffer if refined products and NGLs were not given priority, because transportation costs associated with alternative supply arrangements are significantly higher. IPL agreed with these views, adding that it was not feasible to effect a change in the use of the line and that it expected that bottlenecks on this line would be removed before long. One submittor suggested that increased throughput might be obtained if drag reducers were used and if rationalization of batches were allowed. As to the rules that would govern apportionment on Line 1, submittors generally recommended that the same rules which they advanced for Lines 2 and 3 be applied to Line 1 as well.

8. Should one of Lines 2 and 3 be dedicated to heavy grades and the other to light grades, with apportionment made separately for heavy and for light grades on some basis, such that, in either case, line space then available in one dedicated line would thereafter be apportioned to grades carried by the other dedicated line provided that movement of dedicated crude oil in the line with spare capacity were not restricted?

The dedication of light crude oil to either Line 2 or 3, and heavy crude oil to the other line, with separate apportionments for each, was opposed by IPL and most submittors because it would deny shippers an equitable opportunity for access to pipeline capacity. IPL believed that it was not desirable to dedicate either of these lines to a particular grade of oil or type of service since not only would it be inconsistent with its role as a common carrier but it would also interfere with the optimum utilization of its facilities. Although Line 2 carries mostly heavy crude oil and Line 3 mostly light crude oil, IPL believed that it was essential that it have the flexibility to move crude oil in whatever line was most effective.

One of the advantages of dedicating Line 3 to the shipment of light crude oil was considered to be the maximization of throughput and the consequent minimizing of shut-in production occasioned by lack of space on the pipeline. Those favouring the dedication of a particular line to one crude oil type did so with the recommendation that other types be allowed to enter the line so long as the movement of dedicated crude oil type in the line with spare capacity was not restricted.

9. Other related matters

(i) Treatment of production from projects with assurances of no volumetric limitations

As discussed in section 6, those submittors who were involved in government assurances of no volumetric limitations for the production of crude oil from certain non-conventional projects, sought a unique status through the exemption of certain production from apportionment. One submittor emphasized that these government assurances had been a fundamental consideration in the decision to proceed with such capital intensive projects and should, therefore, not be compromised.

(ii) New Shipper Status

The issue of new shippers gaining access to the pipeline was raised in several submissions. For the most part, the view was expressed that, if the historical method of allocation were maintained, the rights of a new shipper should be curbed during periods when apportionment was required. In this regard, evidence seemed to suggest that new shippers should be able to supply historical end-users but that abuses, such as the creation of "dummy" companies, should not be permitted to increase unfairly the allocations of some historical shippers at the expense of others. This problem would arise only if the historical basis of allocation were maintained. Under the tender method, new shippers would have equal status with historical users.

If the historical method were continued, the issue of minimizing abuse would have to be addressed. Based on the submissions and the evidence, it would appear that the problem could be largely overcome if IPL took account of the destination of historical deliveries when making apportionments to new shippers. This would involve determining whether a new shipper planned to supply an historical user, in which case the historical shipper to the historical user in question would have its apportionment reduced by the identified volume allocated to a new shipper.

(iii) Should an incentive be given to encourage blending of light and heavy crude oils?

IPL suggested that heavy crude oil volumes in excess of Line 2 capacity could beneficially be shipped in blend with light crude oil to meet medium crude oil specifications before or during injection into Line 3. IPL estimated that 5 000 m^3/d of such blends would suffice to eliminate its capacity problem for 1985. Currently, one shipper is blending approximately half of this amount on a voluntary basis.

All shippers acknowledged the benefits of blending, and while a number of them indicated a willingness to consider its adoption, few were prepared to endorse any specific incentive or preference for blended volumes. Not all shippers of heavy crude oil would be able to blend their throughputs although some might be able to participate indirectly through exchanges. Because of this limitation, one shipper suggested that any incentive for blending might be considered discriminatory under Section 55 of the National Energy Board Act. In summation, most shippers wished blending to continue but only on a voluntary basis.

(iv) Date for "Notice Of Shipment"

Under its tariff, IPL requires shippers of crude oil to submit Notices of Shipment on or before the 25th day of the month preceding shipment. In its submission, IPL contended that this deadline did not allow sufficient time to verify the validity of volumes or to make necessary adjustments to optimize use of pipeline capacity. To remedy this situation, IPL proposed that shippers submit notices by the 10th day of the preceding month. IPL stated that it required five days to verify nominations and to advise shippers of their apportioned volumes, the remaining extra days being intended primarily to allow shippers sufficient time to arrange alternative supplies in the event of apportionment.

Several shippers endorsed the need for earlier communication with IPL, but the proposed date of the 10th of the preceding month was generally criticized as unworkable. Although some shippers expressed concern about any date earlier than the 25th of the preceding month, many shippers found that a date around the 20th would be acceptable.

In final argument, IPL revised its proposed date to the 15th day of the preceding month. IPL recognized the concerns expressed by its shippers but believed that any later date would make it extremely difficult to administer apportionment properly.

Chapter 3
Summary and Conclusions

The present method of apportionment employed by IPL in respect of Lines 2 and 3 found no favour with any of the submittors, although some suggested its retention in modified form. On the matter of whether any change should be made in the use of IPL's Line 1, the Board has concluded that Line 1, which transports primarily refined products and NGLs, should be excluded from any decision involving the use of IPL's Lines 2 and 3 which transport crude oil feedstocks only. However, if allocation is necessary on Line 1, it should be carried out separately on the same basis as that used for Lines 2 and 3.

In light of the evidence and with the elimination of a system of administered prices and the introduction of a more relaxed regulatory environment, the Board has concluded that use of the historical apportionment method is no longer appropriate.

The Board perceives the following as desirable characteristics of a replacement method:

- the method must be simple to administer and readily understandable;
- it must be workable even if circumstances change; and,
- there must be some provision for supply to end-use destinations not capable of being supplied economically from alternative sources.

Accordingly, the Board has decided that an apportionment system based on current tenders should be used, provided that supply is assured to areas truly dependent on Canadian feedstocks.

With regard to establishing priority destinations, the Board considers that the allocation system should remain as flexible as possible and the designation of priority destinations should be kept to a minimum. For this reason, and because definitive evidence of individual needs for priority was not adduced at the hearing, any party who considers that it requires such priority for a particular destination may apply to the Board to be so designated. Its application should state fully why it considers that it should be so treated and should be served upon all other current shippers.

The Board has decided that monthly deliveries under apportionment to any priority destinations shall not exceed the rolling average of the previous twelve-months' shipments. The historical record for apportionment purposes shall, however, be adjusted to maintain an appropriate allocation, where a priority destination has undergone a refinery upset or other operational difficulty during the twelve-month period.

It will be evident that this limitation to priority volumes in a month for which apportionment is made could mean that shippers' tenders for oil delivery to priority end-use destinations would not be met in full. However, such unsatisfied portions of those tenders would rank *pari passu* with other current tenders made in respect of non-priority destinations.

With respect to claims for special consideration of non-conventional production, the Board is of the view that all producers should compete equally for market outlets and that special treatment in the allocation of pipeline space for non-conventional production is neither desirable nor necessary. The fact that some producers may have received certain government assurances with regard to matters that properly fall within their respective jurisdictions does not in any way bind the Board with regard to the exercise of its own jurisdiction to determine the matter of apportionment of space on the IPL system.

On the other hand, the Board does consider that encouragement should be given to the movement of blends of light and heavy categories of feedstocks so that total potential line throughputs might thereby be increased. Whilst no attempt should be made to make such movements mandatory, the Board has concluded that an incentive for the shipment of such blends should be introduced. The Board considers an appropriate incentive to be one whereby additional space resulting from shipping a tendered volume of blends in place of a like volume of segregated light and heavy feedstocks, is first apportioned for the further movement of tendered volumes of blended oil, with any remaining space apportioned thereafter on a *pro rata* basis amongst other unsatisfied tenders.

The Board would find acceptable a provision in the tariff for an incentive along the following lines to apply in months of apportionment for shipment of blends of light and heavy crude oils having the characteristics of medium crude oil:

1. IPL would compute the total amount of tenders it has received as if tendered volumes of blends of light and heavy crude oils had been separately tendered.
2. IPL would then compute the pipeline capacity on this basis and calculate therefrom the percentage of apportionment required.
3. The apportionment percentage would determine the minimum space entitlement in relation to tenders made in respect of all oils including the components of the blends of light and heavy crude oils.
4. IPL would then carry out a second calculation to establish pipeline capacity on the basis of apportioned volumes as determined in step 3 but in this instance allowing for the effect of blending taking place using, for this purpose, the apportioned volumes of the components of light and heavy crude oils also determined in step 3.
5. The difference between the capacities calculated in steps 2 and 4, being an increase in available space, would be apportioned initially to tenderers of blends, up to the limit of their original tenders of such blends.
6. Any space remaining after the tendered volumes of blended oil have been satisfied would be apportioned *pro rata* amongst the remaining tenderers.

Two further matters remain to be dealt with.

The Board agrees with the evidence given by all who addressed the point that safeguards will be necessary to assure performance by shippers in apportionment months. The Board would find acceptable the inclusion in the tariff of a rule providing that, in the event that a shipper fails, without reasonable cause, to ship the total apportioned volume in the month, the carrier will reduce the shipper's apportionment in each of the next three months in which apportionment occurs to a level not more than that shipped in the month of non-performance.

In the second matter, the Board has concluded that it should not attempt to fix the day of the month on which Notices of Shipment must be given but rather afford the carrier latitude to determine what prevailing circumstances require. The Board would be satisfied with a tariff rule requiring the filing of Notices of Shipment not sooner than 14 days before the end of the month prior to shipment.

With respect to such matters as possible diversions of feedstocks from the IPL system to the Cochin and Wascana pipelines, the Board recognizes that these could ease IPL's current capacity problems. However, the Board considers that the suggestion made at the hearing with regard to equalizing tariffs on these lines with those of IPL is a matter that would require more detailed investigation and one for address in a toll hearing.

Chapter 4
Disposition

IPL is required to file amendments to its tariff rules and regulations in substitution of appropriate sections in order to embody and reflect the Board's decisions as heretofore summarized in Chapter 3 - Summary and Conclusions. These amendments should be submitted to the Board and served upon all interested parties and current shippers by 7 August 1985 to become effective on 1 September I985.

The foregoing constitutes the Board's decisions and Reasons for Decision in this matter.

J.R. Hardie
Presiding Member

W.A. Scotland
Member

W.G. Stewart
Member

Ottawa, Canada
July, 1985

Appendix

File No.: 1722-13-J1

18 April 1985

To: INTERPROVINCIAL PIPE LINE LIMITED, AND IPL SHIPPERS AND PARTIES LISTED IN APPENDIX I OF HEARING ORDER MH-3-85

Hearing on the Matter of the Apportionment of Pipeline Space by Interprovincial Pipe Line Limited

The National Energy Board has decided to hold a public hearing pursuant to subsection 20(3) and Part IV of the National Energy Board Act to examine the continuing appropriateness of the provisions in the tariffs of Interprovincial Pipe Line Limited (IPL), and the application of those provisions, relating to the apportionment of space amongst shippers on its pipeline system for the transportation of oil to domestic and export markets. The hearing will begin on Monday, 27 May 1985 at 1:00 p.m. in the Board's hearing room in Ottawa.

Background

Oil pipelines under the National Energy Board Act are required to be common carriers. The relevant section of the Act is as follows:

> 59.(1) Subject to such exemptions, conditions or regulations as the Board may prescribe, a company operating a pipeline for the transmission of oil shall, according to its powers, without delay and with due care and diligence, receive, transport and deliver all oil offered for transmission by means of its pipeline.

Until some months ago, there was adequate capacity to permit shipment of all the oil tendered to the pipeline.

More recently, higher than expected levels of light crude oil production and the increasing availability of heavy crude oil have rendered IPL unable to ship all the oil tendered, and a public hearing to consider an expansion of the IPL system is scheduled to commence on 13 May 1985.

The problem of lack of capacity is now further exacerbated by the oil from Norman Wells in the Northwest Territories beginning to flow into the IPL system.

The existing provisions in the tariffs approved by the NEB for the allocation of pipeline space were formulated some time ago in a different environment from that which will exist after deregulation of exports on 1 June 1985.

Clearly the pipeline company should resolve problems with shippers wherever possible. Nevertheless, because the lack of pipeline capacity is becoming more acute, and is likely to persist for some months, the Board believes that a public hearing is necessary in order to ensure the allocation guidelines to be contained in the tariff in effect after deregulation are appropriate to the new circumstances.

In April 1985, IPL was in a situation where volumes tendered exceeded pipeline capacity. IPL apportioned its linespace using the tariff provisions described below and its established apportionment procedures.

IPL's existing tariff (NEB No. 124) states:

> "When, pursuant to Notices of Shipment hereunder, there shall be offered to the Carrier more Petroleum than can be immediately transported, the transportation shall be apportioned by the Carrier among all Shippers on an equitable basis, with due consideration being given to the historical use which each has made of the Carrier's facilities and to the current operating conditions of the Carrier's pipe line."

Based on its established procedures, IPL apportioned linespace to historical users on the basis of the previous twelve months' crude oil movements. A provision of 5,000 barrels per day (794.6 cubic metres per day) was made for new shippers.

On 29 March 1985, Northridge Petroleum Marketing Inc. made a formal complaint to the Board under

Section 55 of the National Energy Board Act of unjust discrimination by IPL in the April apportionment of space.

The Board was not persuaded that there was unjust discrimination, and so informed Northridge in a letter dated 18 April 1985 (copy attached).

Notwithstanding this decision, the Board is of the view that it is appropriate to examine the method of pipeline space apportionment. This examination is required in light of the deregulation of oil exports announced by the Government, given that the necessity of apportioning linespace is likely to continue.

The Western Accord

On 28 March 1985, the Federal Government announced it had reached an agreement concerning oil and natural gas with the energy-producing provinces of Saskatchewan, Alberta, and British Columbia. This agreement, The Western Accord, calls for, amongst other things, the deregulation of crude oil marketing, effective 1 June 1985. More specifically, the Board will no longer limit the volumes of oil being exported nor will it allocate domestic volumes of light crude oil for delivery to refineries in eastern Canada. Most of these volumes move via IPL's pipeline system.

The Hearing

The Board recognizes that existing apportionment procedures were developed under market conditions different from those expected to prevail in the deregulated environment. Accordingly, the Board will hold a hearing under subsection 20(3) and Part IV of the NEB Act in order to seek the views of IPL's shippers, those who were interested parties at the Company's most recent toll hearing, and any other interested parties. The hearing will begin on Monday, 27 May 1985 at 1:00 p.m. in the Board's hearing room.

The Board plans to examine the following issues and expects interested parties to address these in their submissions:

1. Should the existing procedure using an historical base period be retained, replaced, or modified?
2. In the event that existing procedures should be retained, what would be the appropriate base period?
3. In the event that the existing procedures should be replaced or modified, what procedures should be used?
4. Should differentiation be made in the apportionment of light and heavy crude oils and, if so, how?
5. Should any distinction be made between shippers supplying domestic markets and those supplying export markets; i.e., should shippers to domestic markets be accorded preferential treatment?

Attached is a copy of the Board's Directions on Procedure and Notice of Hearing in regard to this matter.

Yours truly,

G. Yorke Slader
Secretary

File Number: 1722-13-J1

Date: 18 April 1985

Hearing Order MH-3-85
Directions on Procedure
Interprovincial Pipe Line Limited -
Apportionment of Pipeline Space

The National Energy Board has decided to hold a public hearing, pursuant to subsection 20(3) and Part IV of the National Energy Board Act, to examine the continuing appropriateness of the provisions in the tariffs of Interprovincial Pipe Line Limited (IPL), and the application of those provisions, relating to the apportionment of space amongst shippers on its pipeline system for the transportation of oil to domestic and export markets.

1. The Board will provide IPL, its shippers, and other parties listed in Appendix I hereof with a copy of its letter dated 18 April 1985 outlining the background of this matter.
2. IPL shall deposit and keep on file, for public inspection during normal business hours, a copy of the Board's letter dated 18 April 1985, the submissions and IPL tariffs NEB Nos. 124, 125, and 126, in its offices at Interprovincial Pipe Line Tower, 10201 Jasper Avenue, Edmonton, Alberta and in Suite 3740, 1 First Canadian Place, Toronto, Ontario. A copy of each of these documents will also be available for viewing in the Board's Library, Room 962, 473 Albert Street, Ottawa, Ontario.
3. Submissions from both IPL and interested parties are required to be filed with the Secretary by 13 May 1985 and served on all other parties as soon as possible.
4. The Secretary will issue a list of interested parties shortly after 13 May 1985.

5. Written evidence of IPL and the interested parties is required to be filed with the Secretary by 17 May 1985 and served on all other parties as soon as possible.

6. The public hearing shall commence in the Board's hearing room on Monday, 27 May 1985 at 1:00 p.m.

7. The National Energy Board will publish the public notice in the following publications:

   "The Sun", the "Vancouver Province", and "Le Soleil de Colombie" in Vancouver, British Columbia; "The Herald" in Calgary and "The Journal" and "Le Franco- Albertain" in Edmonton, Alberta; "Leader-Post" and "L'eau- vive" in Regina, Saskatchewan; "The Winnipeg Free Press" and "La Liberté" in Winnipeg, Manitoba; "The Globe and Mail", "Toronto Star", "Financial Times of Canada", and "The Financial Post" in Toronto, and "The Citizen" and "Le Droit" in Ottawa, Ontario; "The Gazette", "Le Devoir", and "La Presse" in Montreal, and "Le Soleil" and "Journal de Québec" in Quebec City, Quebec; "The Gleaner" in Fredericton, New Brunswick; "The Chronicle Herald" in Halifax, Nova Scotia; and in the Canada Gazette.

8. At the hearing IPL and the interested parties should be prepared to address the following matters:

   a. Should the existing procedure using an historical base period be retained, replaced, or modified?

   b. In the event that existing procedures should be retained, then what would be the appropriate base period?

   c. In the event that the existing procedures should be replaced or modified, then what procedure should be used?

   d. Should differentiation be made in the apportionment of light and heavy crude oils and, if so, how?

   e. Should any distinction be made between shippers supplying domestic markets and those supplying export markets; i.e. should shippers to domestic markets be accorded preferential treatment?

   The Board will hear first all of the evidence of IPL and then will hear all of the evidence of each interested party in turn.

9. Where parties are directed by these Directions on Procedure to file or serve documents on other parties, the following shall apply:

   (1) For documents to be filed with the Board, provide 30 copies;
   (2) For documents to be served on IPL, provide 3 copies;
   (3) For documents to be served on interested parties, provide 1 copy.

10. The procedures to be followed in this proceeding shall, unless the Board otherwise directs, be governed by the Draft NEB Rules of Practice and Procedure dated 18 February 1985.

G. Yorke Slader
Secretary

MH-3-85

NATIONAL ENERGY BOARD
NOTICE OF PUBLIC HEARING
Interprovincial Pipe Line Limited - Apportionment of Pipeline Space

The National Energy Board has decided to hold a public hearing pursuant to subsection 20(3) and Part IV of the National Energy Board Act to examine the continuing appropriateness of the provisions in the tariffs of Interprovincial Pipe Line Limited (IPL), and the application of those provisions, relating to the apportionment of space amongst shippers on its pipeline system for the transportation of oil to domestic and export markets. The hearing will commence on Monday, 27 May 1985, at 1:00 p.m. in the Board's hearing room.

The hearing will be public and will be held to obtain the evidence and relevant views of interested parties, groups, organizations and companies.

Anyone wishing to intervene in the hearing must file a written submission with the Secretary of the Board and serve a copy on IPL.

The deadline for receipt of written submissions is 13 May 1985. The Secretary will then issue a list of intervenors.

Information on the procedures for this hearing (Board letter dated 18 April 1985 and Directions on Procedure: MH-3-85) is available in both English and French and may be obtained by writing to the Secretary or telephoning the Board's Distribution Office at (613) 992-3972.

G. Yorke Slader
Secretary
National Energy Board
473 Albert Street
Ottawa, Ontario
K1A 0E5

18 April 1985

APPENDIX I
MH-3-85

AIR CANADA

ALBERTA ENERGY COMPANY LTD.

ALBERTA ENERGY RESOURCES CONSERVATION BOARD

ALBERTA PETROLEUM MARKETING COMMISSION

AMOCO CANADA PETROLEUM CO. LTD.

ASHLAND OIL

ATTORNEY GENERAL FOR THE PROVINCE OF ALBERTA

ATTORNEY GENERAL FOR THE PROVINCE OF BRITISH COLUMBIA

ATTORNEY GENERAL FOR THE PROVINCE OF MANITOBA

ATTORNEY GENERAL FOR THE PROVINCE OF ONTARIO

PROCUREUR GÉNÉRAL DE LA PROVINCE DE QUÉBEC

ATTORNEY GENERAL FOR THE PROVINCE OF SASKATCHEWAN

B.P. EXPLORATION CANADA LTD.

BRITISH COLUMBIA UTILITIES COMMISSION

CANADIAN GAS ASSOCIATION

CANADIAN FEDERATION OF INDEPENDENT PETROLEUM MARKETERS

CANADIAN PACIFIC AIRLINES LTD.

CANADIAN PETROLEUM ASSOCIATION

CANADIAN SUPERIOR OIL LTD.

CENEX

CHEVRON CANADA RESOURCES LIMITED

CO-OP FEDEREE DE QUEBEC

CLARK OIL AND REFINING CORPORATION

CONOCO

DOME PETROLEUM LIMITED

ESSO RESOURCES CANADA LIMITED

FENERTY, ROBERTSON, FRASER & HATCH

GIBSON PETROLEUM CO. LTD.

GULF CANADA PRODUCTS COMPANY

HUSKY OIL MARKETING OPERATIONS LTD.

IMPERIAL OIL LIMITED

INDEPENDENT PETROLEUM ASSOC. OF CANADA

INDUSTRIAL GAS USERS ASSOCIATION

IRVING OIL LIMITED

KOCH OIL CO. LTD.

MARATHON PETROLEUM

SASKATCHEWAN DEPARTMENT OF ENERGY AND MINES

MINISTRY OF ENERGY FOR ONTARIO

MOTOCO PETROLEUM INC.

MOBIL OIL CANADA LTD.

MONT RESOURCES LIMITED

MURPHY OIL CO. LTD.

NOCO ENERGY CORPORATION

NORCO LTEE

NORDAIR LTD.

NORTHRIDGE PETROLEUM MARKETING INC.

OAKWOOD PETROLEUM LTD.

OLCO OIL

PAN CANADIAN PETROLEUM LTD.

PETRO CANADA PRODUCTS INC.

PETROSAR LIMITED

SASKOIL

SHELL CANADA RESOURCES LIMITED

SHELL CANADA LIMITED

SIPCO OIL LIMITED

SUNOCO INC.

TEXACO CANADA RESOURCES LTD.

TEXACO CANADA INC.

TRANSCANADA PIPELINES LIMITED

TRANS MOUNTAIN PIPE LINE COMPANY LTD.

TURBO RESOURCES LIMITED

ULTRAMAR CANADA INC.

UNION OIL COMPANY OF CANADA LTD.

UNITED REFINING

File: 1737-N48

18 April 1985

Northridge Petroleum Marketing, Inc.
320, 140-4th Avenue S.W.
Calgary, Alberta
T2P 3N3

Attention: Mr. E. Hobson

Dear Mr. Hobson,

Re: IPL Apportionment for April, 1985

The Board has reviewed your complaint of 29 March 1985, and the written submissions of Interprovincial Pipe Line Limited (IPL) and Northridge pertaining thereto, and is not persuaded that IPL unjustly discriminated against Northridge in apportioning space for oil shipments in April, 1985. The space apportionment to Northridge appears to the Board to have been made in accordance with IPL's tariff and apportionment procedures and in a manner consistent with the access provided to other new shippers.

Your complaint is therefore dismissed.

Notwithstanding this finding, in view of the imminent changes in oil regulation, the Board has decided to hold a public hearing pursuant to subsection 20(3) and Part IV of the National Energy Board Act to examine the continuing appropriateness of the provisions in the tariffs of Interprovincial Pipe Line Limited, and the application of those provisions, relating to the apportionment of space amongst shippers on its pipeline system for the transportation of oil to domestic and export markets. The attached material describes the process the Board will use.

Yours truly,

G. Yorke Slader
Secretary

Attachment

cc. Interprovincial Pipe Line Limited, and
IPL shippers and parties
listed in Appendix I
of Hearing Order MH-3-85